

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE MARCH 29, 2005

## SENATE BILL

**No. 387**

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### **Introduced by Senator Ducheny**

*(Coauthors: Assembly Members Garcia, Saldana, and Vargas)*

February 17, 2005

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An act to ~~amend Section 7043 of~~ *add Section 7043.5 to* the Water Code, relating to water.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 387, as amended, Ducheny. New River.

Existing law provides that specified law relating to the maintenance of flow in streams shall not prevent the use or enlargement of any natural channel for municipal purposes or for use in connection with any artificial system of drainage, irrigation, or flood control that does not cause the flow of water in the channel at the intake of the canal to be less than the quantity of water the owners and appropriators have the right to divert into the intake.

This bill ~~would include sewage treatment and pollution prevention among those listed uses, and~~, only as applied to the New River in Imperial County, would define the phrase "use or enlargement of any natural channel for municipal purposes" to include ~~the encasement~~ *sewage treatment and pollution prevention and the encasing* and piping of the New River to protect human health and the natural environment.

The bill would make a finding and declaration of the Legislature regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 7043 of the Water Code is amended to~~  
2     ~~read:~~

3     ~~7043. (a) No act authorized in this chapter shall prevent the~~  
4     ~~use or enlargement of any natural channel for municipal purposes~~  
5     ~~or for use in connection with any artificial system of drainage,~~  
6     ~~irrigation, sewage treatment and pollution prevention, or flood~~  
7     ~~control that does not cause the flow of water in the channel at the~~  
8     ~~intake of the canal to be less than the quantity of water the~~  
9     ~~owners and appropriators have the right to divert into the intake.~~

10    ~~(b) Only as applied to the New River in Imperial County, as~~  
11    ~~used in this section, “use or enlargement of any natural channel~~  
12    ~~for municipal purposes” includes, but is not limited to, the~~  
13    ~~encasement and piping of the New River to protect human health~~  
14    ~~and the natural environment.~~

15    ~~SECTION 1. Section 7043.5 is added to the Water Code, to~~  
16    ~~read:~~

17    ~~7043.5. Only as applied to the New River in Imperial County,~~  
18    ~~as used in this chapter, “use or enlargement of any natural~~  
19    ~~channel for municipal purposes” includes, but is not limited to,~~  
20    ~~sewage treatment and pollution prevention and the encasing and~~  
21    ~~piping of the New River to protect human health and the natural~~  
22    ~~environment.~~

23    SEC. 2. The Legislature finds and declares that, because of  
24    the unique circumstances applicable only to the New River in  
25    Imperial County, a statute of general applicability cannot be  
26    enacted within the meaning of subdivision (b) of Section 16 of  
27    Article IV of the California Constitution. Therefore, this special  
28    statute is necessary.